

STATE *of the*



FIRST AMENDMENT 2005

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AMENDMENT

2005

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State of the First Amendment 2005



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Publication: 143.05-FAC
To order: e-mail puborder@freedomforum.org

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Foreword

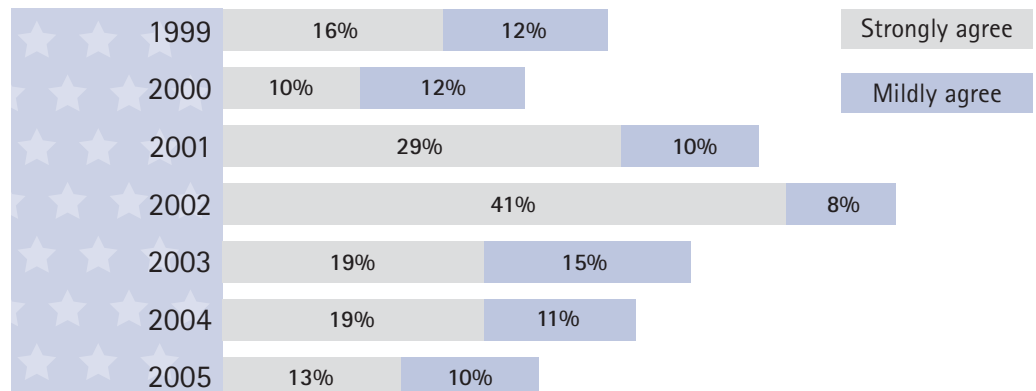
By Gene Policinski
Executive Director/First Amendment Center

The 2005 State of the First Amendment survey results may well be the first signals of the emergence of a strong “middle” viewpoint about our core freedoms.

There seems little question that our fellow citizens have more reason to be focused on how basic freedoms apply to everyday life. Daily headlines and news bulletins range from the debate over laws dealing with terrorist threats to increasingly

emotional domestic discord over foreign wars; from Supreme Court rulings on a variety of religion-based issues to the nature and views of justices who sit on the Court itself; from government initiatives that seem to roll back free-speech protections in entertainment and civil protest to the most serious free press-government collision in decades over confidential sources.

The First Amendment became part of the U.S. Constitution more than 200 years ago. This is what it says: 'Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.' Based on your own feelings about the First Amendment, please tell me whether you agree or disagree with the following statement:
The First Amendment goes too far in the rights it guarantees.



The State of the First Amendment survey has been conducted since 1997. This year's survey, published in cooperation with *American Journalism Review* magazine, shows more Americans are trending toward a middle view on "headline issues" in religion, speech and protest.

The 2005 survey asked about "seasonal programs" in public schools and the presence of religious-based music and references. Removing all religion from December programs is supported by only 20% of respondents. Nativity re-enactments with Christian music are endorsed by 36%. But 33% favor "pro-

grams that have music from the Christian tradition," but not as a dominant element — clearly a middle ground in what has been a fractious debate.

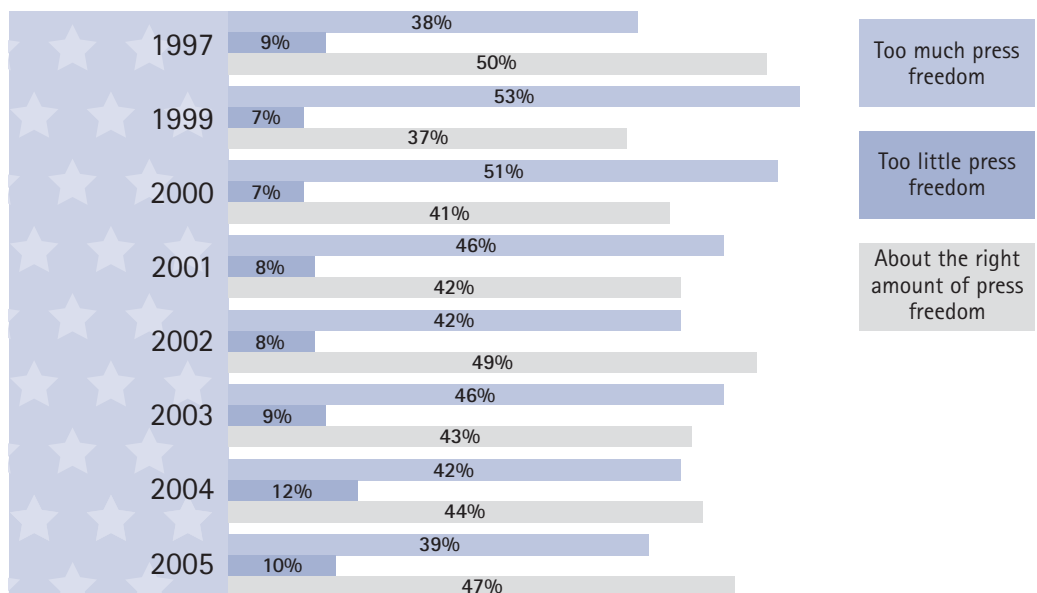
As First Amendment Center Senior Scholar Charles C. Haynes notes, "This is exactly the advice given in the consensus guidelines sent out in 2000 and endorsed in recent years by a broad range of religious and educational groups."

Even as the U.S. Supreme Court was defining its own view in 2005 of posting the Ten Commandments in public buildings, the survey found that 70% of Americans would approve

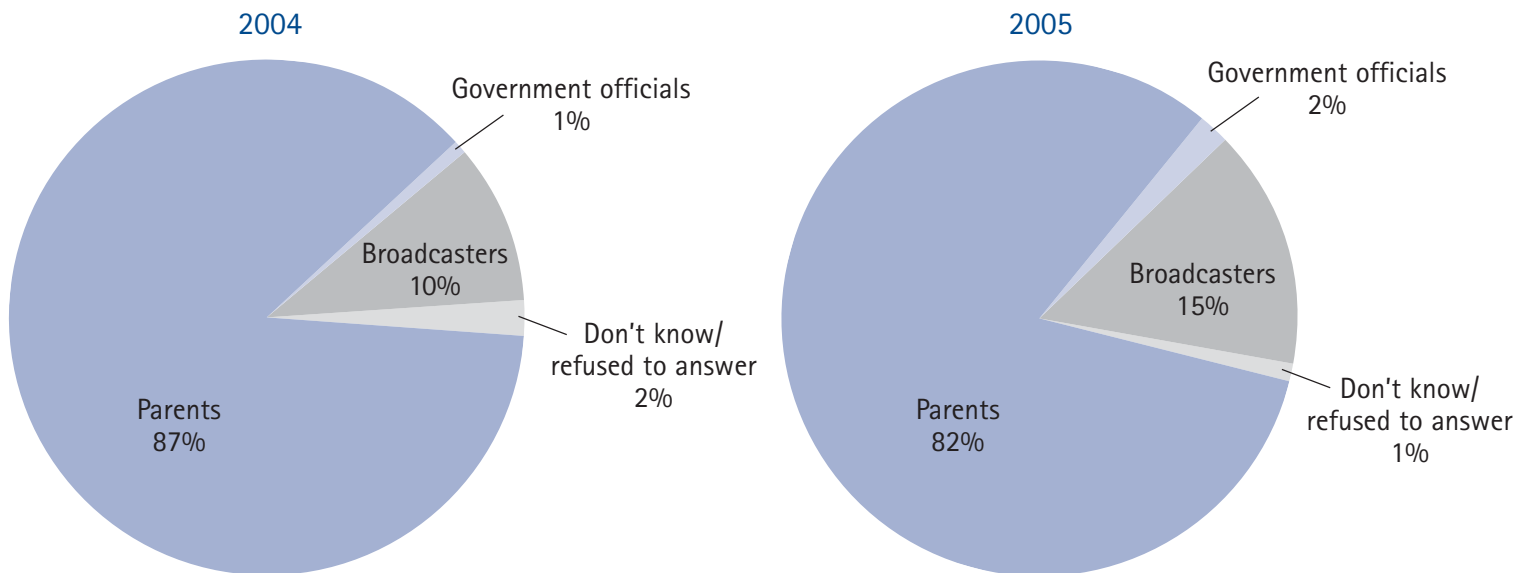
of the posting in government buildings — but a majority of Americans view such postings as a historical move noting the roots of American laws, not as a religious exercise or endorsement.

While many measures confirm that most Americans honor the nation's flag as a symbol of the nation, this year's survey found 63% of those responding opposed adopting a constitutional amendment to give Congress the power to punish flag desecration as a form of protest. Those opposed were up from 53% in 2004. The findings may well indicate a balancing of rights among citizens — a

Overall, do you think the press in America has too much freedom to do what it wants, too little freedom to do what it wants, or is the amount of freedom the press has about right?



In your view, who should be primarily responsible for keeping inappropriate material on television away from children: parents, government officials or broadcasters?



widespread desire to honor this most-venerated symbol of the nation but also a strong respect of a bedrock element of American democracy, freedom of speech.

Sixty-four percent of those surveyed endorsed increasing fines to as much as \$500,000 for over-the-air-waves broadcasters “who violate government rules” regarding content on broadcast television — a finding sure to disappoint those vigorous defenders of broadcast rights who fear increasing government control and, perhaps even more, a “chilling effect” that will lead to self-censorship.

Yet 60% also opposed extending government authority to regulate content on broadcast television to programs on cable or satellite television systems — exactly

the step strongly endorsed by the most vocal of television programming critics.

Americans took a more moderate view on the annual question asking if “the First Amendment goes too far in the rights it guarantees.”

In 2002, 49% of respondents said “yes” — in the first SOFA survey done after the 9/11 attacks. But in 2005, that response was down to 23%.

This is not a cause for much celebration among advocates of First Amendment freedoms: Having one in five Americans say the nation has too much freedom remains a troubling figure.

But the nation has “reset” from those early days of

fear and concern following the terror attacks. And, just perhaps, we also have begun to reconsider ideas that swing far right and left on public policy and personal freedom.

Americans do not have a lock-step view on First Amendment issues — exactly the kind of dynamic “marketplace of ideas” that the founders hoped both would nurture our basic liberties.



Analysis

State of the First Amendment 2005

By the New England Survey Research Associates

General orientations toward the First Amendment

In 2005, the First Amendment Center commissioned New England Survey Research Associates to conduct its annual State of the First Amendment survey. A total of 1,003 interviews with a national scientific sample of adults 18 years of age or older were conducted between May 13 and May 23, 2005.

On one hand, the 2005 survey confirmed that Americans' support for the exercise of the First Amendment in general, and rights of free expression in particular, have continued to increase steadily since 2002 — which was the first survey following the 9/11 attacks. Support for the right to burn the flag as a means of protest, for example, has achieved a record high for this survey. At the same time, Americans exhibit a mix of opinions about religious freedom.

The 2005 survey witnessed a drop in support for public school prayer, although Americans still strongly support the posting of the Ten Commandments in public schools and buildings. Additionally, there exists considerable support for government restrictions on sex and nudity, as well as violence and profanity, on broadcast television.

The key findings of the survey with regard to general orientations toward the First Amendment were as follows:

- Only 63% of those surveyed could name the freedom of speech as a specific right guaranteed by the First Amendment. College graduates (69%) were far more likely to name that right than those who never went to college (less than 52%).
- Meanwhile, no other First Amendment right was named by more than 20% of those surveyed. Barely 1 in 6 could name the freedom of the press as a freedom guaranteed

by the First Amendment. Younger adults (22%) were almost twice as likely as senior citizens (12%) to name the freedom of press.

- Just 23% of Americans said the First Amendment goes too far in the rights it guarantees, considerably less than was indicated in the first post-9/11 survey, when nearly half (49%) of Americans said the First Amendment went too far. College graduates (17%) were among those least likely to say the First Amendment goes too far; by contrast, 43% of those without high school degrees said the First Amendment went too far.
- Democrats (71%) rushed to oppose the amendment by a wide margin over Republicans (52% of whom opposed the amendment). 64% of independents also opposed the flag-burning amendment, which helps to explain the relatively high level of overall opposition. Interestingly, only 56% of young adults aged 18-30 opposed the amendment, significantly less opposition than was detected in other age groups.
- The public is not clamoring for public school students to have greater speech rights inside the classroom. Only 23% said students in high schools have too little freedom to express themselves, and just 27% said public school students should be allowed to wear a T-shirt with a message or picture that others might find offensive.
- Three in four Americans said that as part of a classroom discussion, public school students should be allowed to express views that others might find offensive. Those without a religious affiliation (89%) were especially likely to favor such an open-ended discussion featuring offensive views, while Catholics (68%) and Protestants (73%) also supported such discussion, although not so overwhelmingly.
- More than half (54%) opposed allowing public schools to prohibit the discussion of violence by students.
- Fifty-six percent said musicians should be allowed to sing songs with lyrics that others might find offensive. That's down a bit from the high-water marks of 2001 and 2003, when 61% said they supported that right.
- Nearly half of those surveyed (48%) said people should be allowed to say things in public that might be offensive to religious groups; Catholics (45%) and Protestants (42%) were less likely than those without a religious affiliation (66%) to support such a right.
- 43% of those surveyed supported the right to say things in public that might be offensive to racial groups. A racial gap was noticeable on this issue, as 44% of whites surveyed indicated that people should be

Freedom of speech

The key findings of the survey:

- Support for a Constitutional amendment that would allow governments to prohibit flag burning is on the decline. 63% of respondents said the U.S. Constitution should not be amended to prohibit the burning or desecrating of the American flag, the largest show of opposition to such an amendment since this survey began inquiring into the issue in 1997.

allowed to say things in public that might be offensive to racial groups, as compared to 37% of non-whites who felt that way.

Freedom of the press

Americans are generally less supportive of press freedoms in the abstract than they are of many other freedoms. At the same time, citizens continue to express strong support for the rights of the press to engage in specific activities.

The key findings of the survey:

- Less than half of the respondents (47%) said the press in America has “about the right amount” of freedom to do what it wants. Republicans (51%) were far more likely than Democrats (33%) or Independents (34%) to think that the press has too much freedom.
- 27% of the college graduates surveyed said there is too much press freedom, while 51% of those surveyed who graduated high school, but never went to college, felt the same way. Additionally, females (45%) were far more likely to indicate the press has too much freedom than were males (just 34%).

- 69% agreed that journalists should be allowed to keep news sources confidential. Just 41% said they strongly agree with that right, the lowest degree of intense support recorded for that right since the survey began in 1997.

- Democrats (79%) supported the right to keep news sources confidential to a much greater degree than Republicans (58%).

- Questions about biased news coverage persist: 33% of Americans said that the news media tries to report the news without bias, down from 39% who said so in last year’s survey.

- Additionally, 65% agreed that the falsifying of news stories is a widespread problem, an increase from the 61% overall who said so last year. Four in 10 Americans strongly agreed that the falsifying of news stories is a widespread problem.

- College graduates are among the subgroups least likely to indicate the falsification of stories is a widespread problem — 57% of college grads thought so in the 2005 survey.

- Fewer than six in 10

respondents said newspapers should be allowed to freely criticize the U.S. military about its strategy and performance.

Government regulation of television programming and the broadcast media

The key findings of the survey:

- Although the vast majority of respondents (82%) said that parents should be primarily responsible for keeping inappropriate televised material away from children, that’s somewhat down from the 2004 survey, when 87% thought parents should be primarily responsible.

- Six in 10 said they would not want to extend government’s authority over generally broadcast television content to cover programming available only by cable subscription or by satellite television.

- Nearly two-thirds (66%) of those surveyed said the government should be allowed to restrict sexually explicit material on broadcast television; almost half (47%) strongly agreed that government should have that

power. Women respondents (71%) were far more likely to support such government restrictions than men (59%).

- What other subjects might be subject to government regulation? 60% agreed that government should be able to restrict nudity and violence on broadcast television; in the context of generally broadcast television, nearly that many supported government's power to restrict curse words (57%), scenes portraying illegal drugs (59%), speech that might offend racial groups (58%) and commercials that target children (57%). The most intensely held feelings concerned nudity, as 43% strongly agreed that the government should be allowed to regulate such content on broadcast television.
- By contrast, less than half of those surveyed agreed that government should be able to restrict broadcast television shows that include scenes portraying homosexual characters and relationships (46%), and speech that might be offensive to religious groups (47%). And more than 31% strongly disagreed with government's power to regulate scenes portraying homosexual

characters and relationships in particular.

- Of all the subgroups surveyed, fundamentalist and evangelical Christians (70%) were most likely to think government should be allowed to restrict nudity on broadcast television.
- 36% of young adults favored government power to restrict scenes portraying homosexuality, far less than was indicated by the other groups, including senior citizens (53% of those aged 62 and older favored governmental power in that instance).
- The public clearly favors increasing fines on rule-breaking broadcasters — 64% would back increasing fines to up to half a million dollars. 56% of Republicans strongly favored increasing such fines, as compared to 39% of Democrats and 44% of the overall population that said they favored the move strongly.
- Finally, public support is on the rise once again for placing cameras in courtrooms. After two-thirds (67%) in 1999 said they favored allowing broadcasters to televise any courtroom trial, support dropped precipitously in 2000, when

just 38% said they supported that right. Now five years later, 43% in this year's survey said they support that right for broadcasters.

- 78% said they support allowing broadcasters to televise the proceedings of the U.S. Supreme Court, the most ever recorded on this issue in the history of the survey.

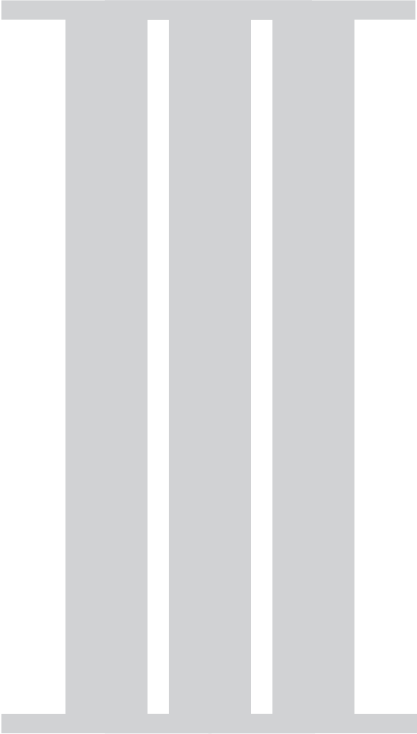
Freedom of religion and the separation of church and state

A substantial segment of the public continued to support increased religious freedom in this country. In the eyes of many, however, such religious tolerance would not be undermined by government attempts to allow religion a greater role in public life, including public education.

The key findings in the survey:

- 26% of Americans said they have too little religious freedom, while 65% say that they have "about the right" amount of religious freedom. Meanwhile, 6% said there is too much religious freedom, equaling the lowest such figure recorded since 2002.

-
- 31% of those surveyed said they have too little religious freedom in the workplace, as compared to 6% who said they have too much religious freedom in that venue. (54% said they have the right amount of religious freedom in the workplace).
 - By contrast, Americans are not as satisfied with the state of religious freedom in the public schools. Half of those surveyed said that public school students have “too little” religious freedom while at school, as compared to 41% who said that students have about the right amount of religious freedom in public schools.
 - As for more specific rights, public support appears down somewhat for government-led prayer in public schools: In the 2005 survey, a bare majority (52%) said they supported allowing teachers and other public school officials to lead prayers in the public schools. By comparison, 65% supported public school-led prayers in both the 1999 and 2000 surveys. Moreover, for the first time, three in 10 said they strongly disagreed with prayers that are led in that way.
 - Fundamentalist/evangelical Christians (75%) and those who earn less than \$40,000 per year (58%) were far more likely to support allowing public schools to lead such prayers, as compared to those without a religious affiliation (24%) and those earning over \$75,000 (45%). Republicans (69%) also favored public school prayer by a wide margin over Democrats (44%).
 - The controversy surrounding government attempts to post the Ten Commandments was frequently in the news during this past year. A substantial majority clearly supported the power of government officials to post the Ten Commandments both inside government buildings in general (70%) and inside public school buildings in particular (64%). And a clear majority (56%) strongly supported the power to post them in government buildings.
 - Moreover, when the Ten Commandments are displayed as “one document among many historical documents,” 85% said they supported posting the Ten Commandments inside public buildings.
 - Why the strong support for posting the Ten Commandments? Over half (52%) said such a posting is primarily a statement about the root of our laws; just 36% felt it was primarily an acknowledgement of God.
 - Americans also support other accommodations to religion in the public schools: 20% said public schools’ seasonal programs in December should be entirely secular; a combined 69% either said public schools should be allowed to put on assembly programs that feature some religious music, or that they should be allowed to put on Nativity reenactments with Christian music.
 - Finally, more than three in four respondents agreed that public schools should be allowed to send home information about religious-sponsored youth programs with students.
-



State of the First Amendment Survey 2005

Percentages may not always total 100% because of rounding

- As you may know, the First Amendment is part of the U.S. Constitution. Can you name any of the specific rights that are guaranteed by the First Amendment?

	1997	1999	2000	2001	2002	2003	2004	2005
Freedom of the press	11%	12%	12%	14%	14%	16%	15%	16%
Freedom of speech	49%	44%	60%	59%	58%	63%	58%	63%
Freedom of religion	21%	13%	16%	16%	18%	22%	17%	20%
Right to petition	2%	2%	2%	1%	2%	2%	1%	3%
Right of assembly/ association	10%	8%	9%	10%	10%	11%	10%	14%
Don't know/ refused to answer	N/A	N/A	37%	36%	35%	37%	35%	29%

-
2. The First Amendment became part of the U.S. Constitution more than 200 years ago. This is what it says: ‘Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.’ Based on your own feelings about the First Amendment, please tell me whether you agree or disagree with the following statement: The First Amendment goes too far in the rights it guarantees.

	1999	2000	2001	2002	2003	2004	2005
Strongly agree	16%	10%	29%	41%	19%	19%	13%
Mildly agree	12%	12%	10%	8%	15%	11%	10%
Mildly disagree	22%	26%	19%	15%	18%	21%	16%
Strongly disagree	45%	48%	39%	32%	42%	44%	56%
Don't know/refused to answer	5%	5%	3%	3%	7%	5%	5%

3. Overall, do you think the press in America has too much freedom to do what it wants, too little freedom to do what it wants, or is the amount of freedom the press has about right?

	1997	1999	1999(f)	2000	2001	2002	2003	2004	2005
Too much freedom	38%	53%	42%	51%	46%	42%	46%	42%	39%
Too little freedom	9%	7%	8%	7%	8%	8%	9%	12%	10%
About right	50%	37%	48%	41%	42%	49%	43%	44%	47%
Don't know/ refused to answer	3%	2%	3%	2%	3%	1%	1%	3%	4%

4. Even though the U.S. Constitution guarantees freedom of religion, government has placed some restrictions on it. Overall, do you think Americans have too much religious freedom, too little religious freedom, or is the amount of religious freedom about right?

	1997	1999	2000	2001	2002	2003	2004	2005
Too much freedom	6%	8%	5%	4%	6%	8%	7%	6%
Too little freedom	21%	26%	29%	32%	20%	24%	27%	26%
About right	71%	63%	63%	62%	70%	66%	64%	65%
Don't know/ refused to answer	2%	3%	3%	2%	4%	3%	3%	4%

-
5. Do you think Americans have too much religious freedom in the workplace, too little religious freedom in the workplace, or is the amount of religious freedom in the workplace about right?

	2005
Too much freedom	6%
Too little freedom	31%
The right amount of freedom	54%
Don't know/refused to answer	9%

Please tell me whether you agree or disagree with the following statement:

6. Some people feel that the U.S. Constitution should be amended to make it illegal to burn or desecrate the American flag as a form of political dissent. Others say that the U.S. Constitution should not be amended to specifically prohibit flag burning or desecration. Do you think the U.S. Constitution should or should not be amended to prohibit burning or desecrating the American flag?

	1997	1999	2000	2001	2002	2003	2004	2005
Should not (go to question 7)	49%	48%	51%	59%	51%	55%	53%	63%
Should	49%	51%	46%	39%	46%	44%	45%	35%
Don't know/refused to answer (go to question 7)	2%	1%	3%	2%	2%	2%	3%	3%

If "should" ...

If an amendment prohibiting burning or desecrating the flag were approved, it would be the first time any of the freedoms in the First Amendment have been amended in over 200 years. Knowing this, would you still support an amendment to prohibit burning or desecrating the flag?

	1997	1999	2000	2001	2002	2003	2004	2005
Yes	88%	90%	87%	81%	83%	87%	82%	86%
No	9%	8%	12%	15%	15%	12%	16%	11%
Don't know/refused to answer	3%	2%	1%	4%	2%	1%	3%	3%

Please tell me whether you agree or disagree with the following statements:

7. Newspapers should be allowed to freely criticize the U.S military about its strategy and performance.

	2002	2003	2004	2005
Strongly agree	33%	32%	32%	36%
Mildly agree	24%	22%	24%	23%
Mildly disagree	18%	14%	12%	12%
Strongly disagree	24%	30%	29%	26%
Don't know/refused to answer	1%	1%	4%	4%

8. Overall, do you think Americans have too much, too little or just the right amount of access to information about the federal government's war on terrorism?

	2002	2003	2004	2005
Too much access	16%	12%	15%	14%
Too little access	40%	48%	50%	52%
Just about the right amount	38%	38%	31%	30%
Don't know/ refused to answer	6%	2%	4%	4%

9. Overall, do you think that students in public schools have too much religious freedom, too little religious freedom or about the right amount of religious freedom while at school?

	2001	2002	2003	2004	2005
Too much	3%	3%	4%	3%	3%
Too little	53%	53%	46%	52%	50%
About right	40%	40%	45%	41%	41%
Don't know/ refused to answer	4%	4%	5%	5%	5%

10. Overall do you think students in public high schools have too much freedom to express themselves, too little freedom to express themselves or is the freedom of public high school students to express themselves about right?

	2003	2004	2005
Too much freedom	13%	15%	18%
Too little freedom	28%	29%	23%
Right amount	54%	51%	51%
Don't know/ refused to answer	4%	5%	7%

Please tell me whether you agree or disagree with the following statements:

11. Public school students should be allowed to wear a T-shirt with a message or picture that others might find offensive.

	1997	1999	2004	2005
Strongly agree	9%	10%	13%	13%
Mildly agree	17%	17%	11%	14%
Mildly disagree	22%	23%	21%	17%
Strongly disagree	48%	48%	51%	50%
Don't know/refused to answer	4%	2%	4%	7%

12. As part of a classroom discussion, public school students should be allowed to express views that others might find offensive.

	2005
Strongly agree	45%
Mildly agree	30%
Mildly disagree	8%
Strongly disagree	12%
Don't know/refused to answer	5%

13. Public schools should be allowed to prohibit the discussion of violence by students.

	2005
Strongly agree	25%
Mildly agree	16%
Mildly disagree	21%
Strongly disagree	33%
Don't know/refused to answer	5%

Now, let me ask you a few questions about television programming.

14. In your view, who should be primarily responsible for keeping inappropriate material on television away from children: parents, government officials or broadcasters?

	2004	2005
Parents	87%	82%
Government officials	1%	2%
Broadcasters	10%	15%
Don't know/refused to answer	2%	1%

15. The government currently has some authority to regulate content on broadcast television. Should that authority be extended to allow the regulation of programs available by subscription to cable or satellite television systems?

	2005
Yes, it should be extended	35%
No	60%
Don't know/refused to answer	5%

16. Do you agree or disagree with the statement, “The government should be allowed to restrict sexually explicit material on broadcast television?”

	2005
Strongly agree	47%
Mildly agree	19%
Mildly disagree	13%
Strongly disagree	19%
Don't know/refused to answer	3%

Please tell me whether you agree or disagree that government should be allowed to restrict each of the following on broadcast television:

17. Nudity

	2005
Strongly agree	43%
Mildly agree	17%
Mildly disagree	17%
Strongly disagree	21%
Don't know/refused to answer	2%

18. Violence

	2005
Strongly agree	37%
Mildly agree	23%
Mildly disagree	17%
Strongly disagree	21%
Don't know/refused to answer	2%

19. Curse words

	2005
Strongly agree	36%
Mildly agree	21%
Mildly disagree	20%
Strongly disagree	22%
Don't know/refused to answer	2%

20. Scenes portraying homosexual characters and relationships

	2005
Strongly agree	32%
Mildly agree	14%
Mildly disagree	20%
Strongly disagree	31%
Don't know/refused to answer	3%

21. Scenes portraying the use of illegal drugs

	2005
Strongly agree	41%
Mildly agree	18%
Mildly disagree	18%
Strongly disagree	20%
Don't know/refused to answer	3%

22. Speech that might be offensive to racial groups

	2005
Strongly agree	36%
Mildly agree	22%
Mildly disagree	18%
Strongly disagree	21%
Don't know/refused to answer	3%

23. Speech that might be offensive to religious groups

	2005
Strongly agree	28%
Mildly agree	19%
Mildly disagree	24%
Strongly disagree	25%
Don't know/refused to answer	4%

24. Commercials that target children as consumers

	2005
Strongly agree	34%
Mildly agree	23%
Mildly disagree	21%
Strongly disagree	18%
Don't know/refused to answer	4%

25. Currently the government imposes fines of up to \$32,500 on broadcasters who violate government rules. Do you favor or oppose allowing the government to impose fines of up to \$500,000 on broadcasters who violate rules?

	2005
Favor strongly	44%
Favor mildly	20%
Oppose mildly	13%
Oppose strongly	19%
Don't know/refused to answer	5%

Now please tell me whether you agree or disagree with the following:

26. All “live” programming should be put on tape delay to edit out objectionable material before it is broadcast.

	2005
Strongly agree	39%
Mildly agree	19%
Mildly disagree	16%
Strongly disagree	23%
Don't know/refused to answer	4%

27. The government should be allowed to access records of materials borrowed by public library patrons.

	2005
Strongly agree	15%
Mildly agree	18%
Mildly disagree	14%
Strongly disagree	49%
Don't know/refused to answer	4%

28. Those who use public libraries should be informed when the government requests records of materials that they have borrowed from the library.

	2005
Strongly agree	62%
Mildly agree	15%
Mildly disagree	7%
Strongly disagree	12%
Don't know/refused to answer	3%

Please tell me whether you agree or disagree with the following statements:

29. Government officials should be allowed to post the Ten Commandments inside government buildings.

	2002	2003	2004	2005
Strongly agree	52%	44%	50%	56%
Mildly agree	18%	18%	18%	14%
Mildly disagree	12%	13%	10%	8%
Strongly disagree	16%	22%	19%	20%
Don't know/refused to answer	2%	3%	3%	2%

30. Government officials should be allowed to post the Ten Commandments inside public school buildings.

	2002	2003	2004	2005
Strongly agree	52%	44%	50%	50%
Mildly agree	18%	18%	18%	14%
Mildly disagree	12%	13%	10%	11%
Strongly disagree	16%	22%	19%	24%
Don't know/refused to answer	2%	3%	3%	1%

31. Government officials should be allowed to post the Ten Commandments inside public buildings when they are displayed as one document among many historical documents.

	2005
Strongly agree	66%
Mildly agree	19%
Mildly disagree	4%
Strongly disagree	9%
Don't know/refused to answer	2%

32. In your opinion, is a display of the Ten Commandments in a public building primarily an acknowledgement of God or primarily a statement about the roots of our laws?

	2005
Primarily an acknowledgement of God	36%
Primarily a statement about the roots of our laws	52%
Neither (vol.)	5%
Don't know/refused to answer	6%

33. Each December, many public schools present seasonal programs. Which of these statements best represents your views about such programs:

	2005
Public schools should be allowed to put on Nativity re-enactments with Christian music.	36%
Public schools should have assembly programs in December that have music from the Christian tradition, but religious music should not dominate.	33%
Public school programs in December should be entirely secular.	20%
None of the above (vol.)	6%
Don't know/refused to answer	4%

34. As you may know, public schools send home information with students periodically from various community groups. Please tell me whether you agree or disagree with the following:
Schools should be allowed to send home information about youth programs sponsored by religious groups.

	2005
Strongly agree	49%
Mildly agree	27%
Mildly disagree	8%
Strongly disagree	13%
Don't know/refused to answer	3%

35. Musicians should be allowed to sing songs with lyrics that others might find offensive.

	1997	1999	2000	2001	2002	2003	2004	2005
Strongly agree	23%	27%	32%	34%	31%	35%	34%	31%
Mildly agree	28%	29%	27%	27%	26%	26%	25%	25%
Mildly disagree	16%	15%	12%	9%	14%	10%	12%	14%
Strongly disagree	31%	26%	28%	28%	27%	26%	26%	24%
Don't know/ refused to answer	3%	4%	2%	2%	2%	3%	3%	7%

36. People should be allowed to say things in public that might be offensive to racial groups.

	1997	1999	2000	2001	2002	2003	2004	2005
Strongly agree	8%	8%	15%	16%	14%	18%	17%	21%
Mildly agree	15%	13%	17%	18%	20%	20%	18%	22%
Mildly disagree	14%	16%	15%	15%	16%	14%	14%	14%
Strongly disagree	61%	62%	52%	49%	48%	47%	49%	39%
Don't know/ refused to answer	2%	1%	1%	2%	1%	1%	1%	3%

37. People should be allowed to say things in public that might be offensive to religious groups.

	2000	2001	2002	2003	2005
Strongly agree	22%	25%	29%	26%	23%
Mildly agree	24%	22%	28%	23%	25%
Mildly disagree	15%	16%	14%	14%	15%
Strongly disagree	38%	35%	28%	36%	35%
Don't know/ refused to answer	1%	3%	2%	1%	4%

38. Teachers and other public school officials should be allowed to lead prayers in public school.

	1997	1999	2000	2005
Strongly agree	37%	44%	48%	35%
Mildly agree	20%	21%	17%	17%
Mildly disagree	15%	15%	13%	16%
Strongly disagree	25%	18%	19%	30%
Don't know/ refused to answer	2%	2%	2%	2%

Please tell me whether you agree or disagree:

39. Broadcasters should be allowed to televise the proceedings of the United States Supreme Court.

	1997	2000	2001	2005
Strongly agree	44%	48%	51%	54%
Mildly agree	29%	25%	26%	24%
Mildly disagree	11%	10%	9%	9%
Strongly disagree	12%	13%	12%	9%
Don't know/ refused to answer	3%	4%	1%	3%

40. Broadcasters should be allowed to televise the proceedings of any courtroom trial they wish.

	1997	2000	2001	2005
Strongly agree	28%	34%	22%	26%
Mildly agree	23%	33%	16%	17%
Mildly disagree	9%	13%	21%	26%
Strongly disagree	25%	17%	39%	27%
Don't know/ refused to answer	4%	3%	2%	3%

The First Amendment Center, in cooperation with *American Journalism Review* magazine, commissioned New England Survey Research Associates to conduct the general public survey of attitudes about the First Amendment. The survey was conducted by telephone between May 13 and May 23, 2005. The sampling error for 1,003 national interviews is about $\pm 3\%$.

N Methodology

The First Amendment Center commissioned New England Survey Research Associates to conduct a general public survey of attitudes about the First Amendment. The questionnaire was a national survey developed jointly by the First Amendment Center and Professors David Yalof and Ken Dautrich. First Amendment Center Executive Director Gene Policinski provided overall direction for the project. The survey was conducted by telephone between May 13 and May 23, 2005.

Interviews were conducted under the supervision of Yalof and Dautrich, using a Computer Assisted Telephone Interviewing (CATI) system. The survey was conducted by professional survey interviewers who are trained in standard protocols for administering survey instruments. Interviewers assigned to this survey participated in special training conducted by sen-

ior project staff. The draft survey questionnaire and field protocols received thorough testing prior to the start of the formal interviewing period. Interviews were extensively monitored to ensure standards for quality were continually met.

The national sample used for this research project included residential telephone numbers in the 48 contiguous states. The sample was stratified to ensure that broad geographic regions were represented in proportion to their share of the total adult population in the United States. Within each of these regions, telephone numbers were generated through a random-digit-dial telephone methodology to ensure that each possible residential telephone number had an equal probability of selection. Telephone banks that contain no known residential telephone numbers were removed from the sample selection process. Once

selected, each telephone number was contacted a minimum of four times to attempt to reach an eligible respondent. Households where a viable contact was made were called additional times. Within each household one adult was randomly selected to complete the interview.

The sampling error for 1,003 national interviews is $\pm 3.1\%$ at the 95% level of confidence. This means that there is less than one chance in 20 that the results of a survey of these respective sizes would differ by more than 3.1% in either direction from the results, which would be obtained if

all adults in the appropriate area had been selected. The sample error is larger for sub-groups. NESRA also attempted to minimize other possible sources of error in this survey.



Commentary

God, schools and public opinion: moving to the center?

By Charles C. Haynes

Senior Scholar/First Amendment Center

Loud and extreme. Those are the voices dominating the debate in the 150-year-old battle over God in the public school classroom. But that might change now that growing numbers of Americans seem to be moving toward a common-sense middle ground.

At least that's my optimistic reading of the numbers in the 2005 State of the First Amendment survey released by the First Amendment Center.

Consider the "school prayer" conflict, a favorite hot button pushed regularly by some politicians and religious leaders to whip up hostility toward the "godless" public schools. Five years ago, 48% of Americans strongly agreed that teachers and other public school officials should be allowed to lead prayers in public schools. Today, that number has dropped to 35%.

What caused the shift in public opinion? It could be that more people now realize that teacher-led prayer isn't the only — or best — way for kids to express their faith in a public school. In 2000, the U.S. Department of Education sent guidelines to every principal in the nation, making it clear that students do have a right to pray in schools — as long as they don't disrupt the school or interfere with the rights of others.

The Supreme Court may have taken the state out of the school-prayer business, but God has never been kicked out of any classroom. Unfortunately, many school officials (and many parents) still haven't gotten the message.

According to the survey, half of the American people believe that students in public schools have "too little religious freedom."

Beyond the prayer debate, a sensible center may also be emerging on other religion-in-schools issues. In the wake of the yearly December brouhaha over Christmas, the survey asked people about “seasonal programs” in public schools. Removing all religion from December programs is supported by only 20% of respondents. On the other end of the spectrum, Nativity re-enactments with Christian music are endorsed by 36%.

But a middle-of-the-road 33% favor “assembly programs in December that have music from the Christian tradition, but religious music should not dominate.” This is exactly the advice given in the consensus guidelines sent out in 2000 and endorsed in recent years by a broad range of religious and educational groups.

Contrary to the myths perpetuated by culture-warriors on both sides, public schools don’t have to choose between either

holding a church service or taking Christ out of Christmas. A third model — educational assemblies that appropriately include religion — appears to be gaining public support.

On the Ten Commandments issue, there’s less middle ground — at least at first glance. A majority 64% support allowing government officials to post the Decalogue inside public school classrooms, down only slightly from last year’s 68%.

But a closer look reveals that 52% of Americans see displays of the commandments in public buildings as primarily a statement about the roots of our laws, not state endorsement of religion. This is a starting point, at least, for an educational solution. Although the Supreme Court has struck down as unconstitutional attempts to permanently post the Ten Commandments in classrooms, the Court has also made clear that academic teaching about biblical

ideas as part of a course in history or literature is permissible under the First Amendment.

Finally, on the question of school distribution of fliers from religious organizations about youth programs, an issue that has sparked lawsuits around the nation, 76% of Americans want public schools to treat religious groups like all other community groups. Is “equal treatment” for religious and other community-youth programs a common-ground solution? The public seems to think so.

Reading a trend toward moderation into these results may be wishful thinking. But a First Amendment approach — one that keeps school officials from promoting or denigrating religion, but simultaneously protects the religious-liberty rights of students — appears to be gaining public support.

After 150 years of conflict, even small doses of common sense are signs of hope.

The First Amendment Center works to preserve and protect First Amendment freedoms through information and education. The center serves as a forum for the study and exploration of free-expression issues, including the freedoms of speech, press and religion and the rights to assemble and to petition the government.

The center is housed in the John Seigenthaler Center at Vanderbilt University in Nashville, Tenn. It also has offices in Arlington, Va. It is an operating program of the Freedom Forum, a nonpartisan foundation dedicated to free press, free speech and free spirit for all people.



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